

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>RONALD L. FLEMING,</b>	:	
	:	
<b>Plaintiff</b>	:	<b>CIVIL ACTION NO. 1:21-349</b>
	:	
<b>v.</b>	:	<b>(MANNION, D.J.)</b>
	:	<b>(CARLSON, M.J.)</b>
<b>KELLY YATES, et al.,</b>	:	
	:	
<b>Defendants</b>	:	

**ORDER**

Presently before the court is the report and recommendation (“Report”) of Magistrate Judge Martin C. Carlson, ([Doc. 9](#)), which recommends that the plaintiff Ronald L. Fleming’s Complaint, ([Doc. 1](#)), be dismissed and his motions to amend, ([Doc. 6](#)), and for a temporary restraining order, ([Doc. 7](#)), be denied. Fleming filed objections to the Report. ([Doc. 12](#)).

When objections are timely filed to the report and recommendation of a magistrate judge, the district court must review *de novo* those portions of the report to which objections are made. [28 U.S.C. §636\(b\)\(1\)](#); [Brown v. Astrue](#), 649 F.3d 193, 195 (3d Cir. 2011). Although the standard is *de novo*, the extent of review is committed to the sound discretion of the district judge and the court may rely on the recommendations of the magistrate judge to the extent it deems proper. [Rieder v. Apfel](#), 115 F.Supp.2d 496, 499 (M.D.Pa. 2000) (citing [U.S. v. Raddatz](#), 447 U.S. 667, 676 (1980)).

Even where no objections are made to a report and recommendation, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” [Fed.R.Civ.P.72\(b\)](#), advisory committee notes; see also *Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. [28 U.S.C. §636\(b\)\(1\)](#); [M.D.Pa. Local Rule 72.3](#).

In his Report, Judge Carlson conducted a review of the Fleming’s *pro se* Complaint in accordance with [28 U.S.C. §1915\(e\)\(2\)\(B\)\(ii\)](#). Initially, the Report observes that the Complaint does not conform to [Federal Rule of Civil Procedure 8](#), in that it is handwritten and, as a result, “unintelligible, inscrutable, and lack[s] coherent factual averments and a comprehensible prayer for relief.” ([Doc. 9, at 8](#)). Accordingly, the Report recommends dismissal of the Complaint in its entirety.

Additionally, because Fleming invites the court to enjoin his pending criminal case, and because all three factors of the *Younger* Abstention

Doctrine apply here, the Report recommends that the court abstain from addressing his request for injunctive relief. Finally, Judge Carlson observes that, insofar as Fleming seeks to bring a civil rights action premised on claims of malicious prosecution, the Complaint fails as a matter of law because Fleming's criminal case has not been resolved in his favor given that it remains pending.

The court has conducted a thorough review of all pertinent filings and finds the Report of Judge Carlson to be well-reasoned and well-supported. Although Fleming has filed objections to the Report, he appears to accept its conclusions in that he has already filed an Amended Complaint, as well as a second motion for preliminary injunction. ([Doc. 10](#); [Doc. 13](#)). In light of this, the court will overrule the objections and adopt the Report in its entirety as the decision of the court.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

(1) Fleming's objections to the Report, ([Doc. 12](#)), are

**OVERRULED;**

(2) The Report of Judge Carlson, ([Doc. 9](#)), is **ADOPTED**

**IN ITS ENTIRETY;**

(3) Fleming's Complaint, ([Doc. 1](#)), is **DISMISSED;**

(4) Fleming's motion to amend, (Doc. 6), is **DISMISSED**

**AS MOOT;**

(5) Fleming's motion for a temporary restraining order and/or preliminary injunction, (Doc. 7), is **DENIED**; and

(6) The matter is **REMANDED** to Judge Carlson for further proceedings.

*s/ Malachy E. Mannion*  
**MALACHY E. MANNION**  
**United States District Judge**

**DATE: April 16, 2021**

21-0349-01